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SPEECH FOR THE HONOURABLE MARTIN CAUCHON, MINISTER OF JUSTICE AND ATTORNEY GENERAL OF CANADA, TO THE EMPIRE CLUB OF CANADA

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CHECK AGAINST DELIVRY

Thank you, Madam President, for your kind introduction.

I know as I begin this speech today that we are all looking at the events of the past 24 hours and what impact those events will have on our country and on our world.

I appreciate this opportunity to speak to you. The Empire Club of Canada has long been an invaluable forum for public discussion.

It is in this spirit that I've come to discuss our justice system and, more precisely, the core values upon which it is built.

I stand here before you today because I believe in this country. I believe our government plays a leadership role here at home and on the world stage.

Indeed, one only has to look at Canada's role in the most serious issue of the day; the crisis in Iraq.

We work for compromise. We work for solutions within the United Nations. And we strive for a safer world. As the Prime Minister said in the House of Commons earlier this week, we believe that Iraq must fully abide by the resolutions of the United Nations Security Council, and we made it clear from the beginning that approval of the Security Council would be preferred for Canada to participate in a military campaign.

Canadian Values

Today, I want to talk about the kind of Canada we want-for ourselves and for our future generations. The Canada we want is partly shaped by our laws and, as Justice Minister, I have the privilege of playing a special role in developing and defending those laws.

So what is it that makes us proud to be Canadian? What is it that we most want to leave to our children? I think we are proud of our commitment to democracy, freedom, and fairness. We are proud that we look out for our neighbour, and that we welcome differences of language, culture, and religion. We are proud to be thought of as dependable friends in the international community.

In 1867, the Fathers of Confederation captured core Canadian values when they included in the Constitution "peace, order, and good government." These remain defining characteristics of our society, but when we updated our constitution in 1982, we added values such as fairness, equality, and diversity as key elements of what makes us Canadian.

Today, I want to talk about three aspects of this-starting with how we seek freedom through

security in these days when war and terrorism so much occupy our thoughts.

Second, I want to talk about how the criminal law reflects who we are.

Mainly, though, I want to speak to you about what it means to be Canadian.

Freedom through Security

As we gather today, we are under the cloud of war and terrorism. I know that you join me in hoping for the best possible resolution in these difficult circumstances.

The Government of Canada continues to be vigilant in safe-guarding Canadians. Since the terrorist attacks of September 11, we have recognised a new and immediate threat to our most basic security. I am proud to say that we have worked hard to be firm in the face of the dangers posed by international terrorism, but to be equally firm in our commitment to express our most basic values in our response. We have sought to protect our most basic freedom-freedom from fear-by passing new laws and adopting new procedures to address the ongoing threat of international terrorism.

We have worked to strengthen our laws and our capacity to anticipate and respond to these threats. However, we also believe that this threat demands that we work with our neighbours. We have done so through the Smart Border declaration, through our leadership at the United Nations, and through our close links with the international law enforcement and intelligence community.

Seeking fairness in the emerging world order through new forms of international cooperation and dialogue is as much a part of our response to terrorism as new tools for law enforcement. It should make us all proud that this was done under Canada's leadership.

Balancing Freedom and Responsibility: The Criminal Law

As a society, our aspirations are often expressed through laws. Criminal law has always been reserved as society's way to express our most serious outrage for behaviour that is unacceptable.

Today, however, I think we need to examine whether we are using the criminal law in the right way-whether we have found the proper balance between freedom and responsibility.

It is remarkable to me that, since Confederation, every Parliamentary session has debated criminal law bills. It means our criminal law has been built piece by piece. It is important to take stock and to ask ourselves whether the various amendments brought over the years still hold together as a comprehensive code.

Based on my experiences as Justice Minister and as a lawyer in private practice, I think we need to ask whether we have applied criminal sanctions both too much and too little. I know that sounds like a contradiction, but I will explain by talking about two files that have been in the news recently.

Too Much Criminal Law: Possession of Marijuana

One area where I think that we may be using the criminal law too much is in relation to the possession of small amounts of marijuana for personal use.

Now don't get me wrong-we must continue to educate people about the harmful effects of smoking marijuana, and there should still be penalties for those caught using it.

And until the law is changed by Parliament, I will continue to vigorously defend it. But I do think that the time is right for us to debate whether the criminal law is the right tool to use to accomplish our goals.

The criminal law is a blunt tool; it is only effective if it is applied consistently and if it reflects true social consensus on an issue. I am troubled by the inconsistent application of the criminal law to the possession of small amounts of marijuana for personal use.

We know that your children or grand children may not be charged if they are caught in Toronto, but kids in small towns across Canada are being charged for exactly the same behaviour. This means that kids are ending up with a criminal conviction.

This can have a devastating impact on their lives-from the types of jobs they can get, to travelling or going to university in other countries, particularly the United States.

I think we need to question whether our approach of selective enforcement of the cannabis possession law has been effective.

One idea that is being considered is to have the police issue tickets to offenders. It is likely that if we moved into a ticketing regime there would actually be more enforcement of the possession offence. That has been the experience in Australia.

We might also be more likely to achieve our objectives by adopting a more aggressive public education campaign about the dangers of marijuana use, and focus our enforcement efforts on traffickers and organised crime.
These are not easy questions, but I think we need to have this debate.

Too Little Criminal Law: Corporate Fraud

One area where it may be argued that we have too little criminal law now is the matter of holding corporate leaders and corporations to account for harmful behaviour.

We have all seen the stories about American corporate fraud on a massive scale, such as with Enron and WorldCom. And we have also seen the stories of small investors whose life savings and retirement dreams have disappeared, not because of some unfortunate disaster, but rather because some corporate leaders lost their moral compass and pursued greed over responsibility. This is not part of the Canada we want.

We have gone to the US and England to talk to their experts. We have concluded that we need to strengthen our capacity to investigate and prosecute major corporate frauds and to make the penalties for such behaviour a real deterrent.

I am working with my colleagues-the Ministers of Finance, Industry, and the Solicitor General-on proposals to strengthen the law on corporate fraud and to introduce tougher penalties.

This could involve changes to the Criminal Code or it may require that we create an entirely new law. But either way, our message is clear: we as a society must protect the integrity of our markets and our investors, whether they have invested thousands or millions of dollars.

Fairness and Diversity: Looking Out for One Another

If there is one thing that makes us proud as Canadians, it is that we are ready to look out for one another, while at the same time we expect people to take reasonable steps to look out for themselves. Canadians are willing to share both benefits and burdens, and they see a strong role for government in doing this.

One of the most concrete ways that we express our commitment to fairness is through legal aid. In order to ensure a fair trial, we sometimes have to pay so that the person accused of the crime can be represented by legal counsel.

We need to continue this dialogue about what kind of legal system we want, and how we can best express our core values of access, fairness, and responsibility.

Embracing Diversity and Respecting Differences

I said earlier that I believe Canadians are proud of Canada's tradition of embracing diversity and respecting differences. While many of us can take for granted that we "belong," there are always minorities whose sense of acceptance by us is much more fragile.

Today, we are debating this concept in many areas. Whether in our approach towards Aboriginal people, or new immigrants, or persons with a disability, we are renewing our commitment to try to find ways to create a community in which all can feel that they are accepted.

For gay and lesbian Canadians, the last few decades have seen rapid and monumental changes. When Pierre Trudeau declared that the "state has no place in the bedrooms of the nation," and changed our criminal law, he set in place a rapid evolution.

Today, gays and lesbians are formally protected against discrimination in employment, accommodation, and government services. Benefits for couples and families are generally extended to gay and lesbian partners and their children.

Social acceptance is increasing, though not guaranteed in all areas of life. So many of these members of our society are no longer forced to live in secret, to hide their most basic relationships.

But there is a debate about whether they can truly "belong" in our society when they cannot be married.

I am not here to try to take one point of view or the other. This is a matter which is before the courts in three provinces, and we have received judicial decisions that support both sides. But this is an issue which should not be left to the courts alone to solve. It touches so many people, so directly, that it calls for a full discussion among Canadians.

That is why I have asked the House of Commons Standing Committee on Justice and Human Rights to conduct hearings into this question: so that ordinary Canadians can speak directly to their elected representatives on this fundamental issue.

I hope that the report of the Committee will demonstrate the respect that we hold for one another and our willingness to debate difficult issues in a calm and reasoned way. I hope it will help us to find a solution that is right for our time.

Conclusion

We live in an age in which the world's cultures have become intertwined. We witness history being made live on television and exchange views with our global neighbours on the Internet.

We shop and sell our goods in a global marketplace. We strive for solutions in the international arena.

Our justice system is key to establishing Canada's credibility in the world. It helps define who we are as Canadians. And it helps establish our role in a global society.

Today, I have talked about our values of freedom through security, fairness and sanction, diversity and respecting differences. I think that these are elements of the Canada we want. Our continued willingness to debate these values, and the laws which give them expression, will ensure that we can leave to our children a country that will make them as proud.

Merci, thank you for your kind attention.

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